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EXAMINER

JONES, MARCUS D

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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12/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,882	Applicant(s) JOMAA ET AL.	
	Examiner Marcus D. Jones	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>IDS (5 November 2008)</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed on 15 September 2008 in response to the previous Non-Final Office Action (14 April 2008) is acknowledged and has been entered.

Claims 1-24 are currently pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6, 9-18, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider et al. (US PGPub 2003/0092484).

In reference to claims 1, 22 and 24, Schneider discloses: A method and apparatus for allocating a prize including: a primary controller for determining the award of a prize; and an auxiliary controller capable of communication with the primary controller, the auxiliary controller being further capable of communication with one or more gaming terminals (pg 1, par 9; *master and slave server*), comprising receiving at the auxiliary controller of data from one or more of the gaming terminals, the data including at least one gaming terminal identifier and associated gaming terminal accumulated amount (pg 2, par 23); deriving a total contributory amount in response to

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the gaming terminal accumulated amounts; communicating the total contributory amount from the auxiliary controller to the primary controller; determining at the primary controller whether or not to award a prize based upon the total contributory amount; if a prize is determined to be awarded, communication data associated with the determination from the primary controller to the auxiliary controller; and analyzing at the auxiliary controller the data associated with the determination and the data stored in the memory to determine to which of the gaming terminals the prize is to be allocated (pg 2, par 18).

In reference to claims 2 and 3, Schneider discloses: deriving a respective contributory amount in response to each gaming terminal accumulated amount and deriving a total accumulated amount in response to the gaming terminal accumulated amounts (pg 2, par 19; *The current pool represents the combined contributions of each slave server and each slave server pool total further represents the combined contribution of all EGMs*).

In reference to claims 4, 5, and 6, Schneider discloses a user-selected percentage of the play is added to a common bonus pool (pg 1, par 8). Schneider also discloses that the contribution rate is typically 0.001% to 3% of all coin-in (pg 2, par 21).

In reference to claims 9 and 10, Schneider discloses wherein the apparatus includes a plurality of auxiliary controllers each capable of communication with the primary controller and each capable of communication with a respective set of one or more gaming machines and wherein the auxiliary controllers and the primary controller

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are geographically separate and each of the auxiliary controllers are disposed at separate venues (pg 1, par 9).

In reference to claim 11, Schneider discloses that the master server is configured with a list of all slave servers participating in the promotion (pg 2, par 19).

In reference to claims 12 and 13, Schneider discloses that each slave server is also configured with which EGMs (game terminals) are linked to a particular bonus pool (pg 2, par 20).

In reference to claims 14, 15, and 16, Schneider discloses a "heartbeat" message that is sent to the EGMs approximately every 5 seconds that causes the EGMs to update the value of their contributions to the master server (pg 2, par 21).

In reference to claims 17 and 18, Schneider discloses that the master server sends win messages to slave servers who then identify a winning EGM that is then communicated back to the master server (pg 3, par 26).

In reference to claim 23, Schneider discloses a wide area network that incorporates a single master server that is connected to different casinos, which include local area networks (see Figure 1 and pg 1-2, par 13).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US PGPub 2003/0092484), and further in view of Karmarkar (US 6,508,709).

In reference to claim 7, Schneider discloses the invention substantially as claimed. Schneider does not specifically disclose a wide area network having a bandwidth of less than or equal to 10,000 bits per second. Karmarkar teaches a gaming network that communicates over a wide area network at a bandwidth of 10kps (col 2, ln 26-29).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Schneider in view of Karmarkar to have a gaming network able to operate at a certain data rate.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US PGPub 2003/0092484), and further in view of Giobbi (US PGPub 2003/0045354).

In reference to claim 8, Schneider discloses the invention substantially as claimed. Schneider does not specifically disclose a local area network having a

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bandwidth approximately equal to 10 mega bits per second. Giobbi teaches using a local area network with data transfer rates of 10, 100, and 1000 mega bits per second (pg 3, par 24).

It would have been obvious to a person having ordinary skill in the art to have modified Schneider in view of Giobbi to have a local gaming network that is able to operate at a certain data rate.

7. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US PGPub 2003/0092484).

In reference to claims 19 and 20, Schneider discloses the invention substantially as claimed. Schneider does not specifically disclose performing the method at least once every 2 to 5 seconds. It is a matter of design choice to a person having ordinary skill in the art to perform the action every 2 to 5 seconds. The invention would have expected to perform equally as well performing the method at any specified time. WHY IS THIS DESIGN CHOICE? You need to fully explain yourself

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider et al. (US PGPub 2003/0092484, and further in view of Olsen (US 6,110,043).

In reference to claim 21, Schneider discloses the invention substantially as claimed. Schneider discloses using a slot machine (pg 1, par 13), but not specifically as poker machine; a point of sale register; a mobile phone; a personal computer; an

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access control point; or a television. Olsen teaches using a poker machine (col 1, ln 10-11).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Schneider in view of Olsen to have a variety of gaming machines contributing to the jackpot pool.

Response to Arguments

9. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 5 November 2008 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus D. Jones whose telephone number is (571)270-3773. The examiner can normally be reached on M-F 9-5 EST, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus D. Jones/
Examiner, Art Unit 3714

/John M Hotaling II/
Supervisory Patent Examiner, Art
Unit 3714